

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

JOSEPH MCQUAIG,)	
)	
)	
Petitioner,)	
)	1:15CV236
v.)	1:00CR250-3; 1:00CR251-3
)	1:00CR312-3; 1:01CR4-1
UNITED STATES OF AMERICA,)	
)	
)	
Respondent.)	

ORDER

The Order and Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on March 31, 2015, was served on the parties in this action. Petitioner objected to the Recommendation.

The Court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The Court therefore adopts the Magistrate Judge's recommendation.

IT IS THEREFORE ORDERED that Petitioner's "Rule 60(b)" motion be construed as an attempt by Petitioner to file a second or successive § 2255 action.

IT IS FURTHER ORDERED that this action be dismissed due to Petitioner's failure to obtain certification from the Fourth Circuit as required by 28 U.S.C. §§ 2244 and 2255 and Fourth Circuit Local Rule 22(d). A judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for

appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 13th day of April, 2016.

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge